

REMARKS

Applicant submits this Amendment After Final in response to the Office Action mailed on March 30, 2010.

In the Action, the Examiner rejected claims 1, 2, 5, and 11 under 35 U.S.C. § 102(b) as allegedly being anticipated by Dormandy, Jr. et al. (U.S. Patent No. 5,746,734); rejected claims 3 and 35-57 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Dormandy, Jr. et al. further in view of Gordon et al. (U.S. Patent No. 5,928,246); and rejected claims 6-10 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Dormandy, Jr. et al. further in view of Bourne et al. (U.S. Patent No. 5,486,193). The Examiner made the rejections final.

By this Amendment, Applicant amends claims 1 and 3, adds new claims 38-42, and cancels claims 2, 14-16, 18-25, and 27-34 without prejudice or disclaimer. Applicant reserves the right to present the subject matter of the cancelled claims at a later date. Claims 1, 3, 5-11, and 35-42 are currently pending. Of these claims, claims 1 and 35 are independent.

Applicant respectfully traverses the Section 102(b) rejection of claims 1, 2, 5, and 11 over Dormandy, Jr. et al. To properly establish that a prior art reference anticipates a claimed invention under 35 U.S.C. § 102, each and every element of the claims in issue must be found, either expressly described or under principles of inherency, in the single prior art reference.

Independent claim 1 is drawn to a front-end loader having, among other things, a proximal portion and a distal portion. The distal portion includes a tube having a proximal end and a distal end having a means for reducing air introduction into a

patients' cardiovascular system, wherein "the means for reducing air introduction includes a beveled edge at [the] distal end of [the] distal portion, [the] beveled edge including a tip and a base, [the] base disposed proximally of [the] tip."

Dormandy, Jr. et al. discloses an introducer cartridge 41 for delivering an embolization device 11. See, for example, Fig. 5. The introducer cartridge 41 includes an elongate tubular member 42 having a passage 43 extending therethrough. The tubular member 42 further includes proximal and distal extremities 46 and 47. "The distal extremity is provided with a tapered tip 48." Col. 5, ll. 3-4. Introducer cartridge 41 further includes a hub 51 mounted on proximal extremity 46 of the elongate tubular member 42. Furthermore, Dormandy, Jr. et al. discloses that the tapered tip 48 functions to frictionally retain introducer cartridge 41 within hub 131 of delivery catheter 121 by frictionally engaging conical recess 133, as shown in Fig. 10. Col. 8, ll. 13-19.

Dormandy, Jr. et al., however, fails to disclose, teach, or otherwise suggest a distal portion including a tube having a distal end including a means for reducing air introduction, wherein "the means for reducing air introduction includes a beveled edge at [the] distal end of [the] distal portion, [the] beveled edge including a tip and a base, [the] base disposed proximally of [the] tip," as required by independent claim 1.

In the Action, the Examiner refers to Fig. 5 of Dormandy, Jr. et al. and alleges that distal extremity 47 of tubular member 42 corresponds to the claimed distal portion. Office Action at 2. The Examiner also alleges that rounded distal extremity 49 of tip 48 corresponds to the claimed means for reducing air introduction into a patients' cardiovascular system. Applicant respectfully disagrees. Dormandy, Jr. et al. includes no disclosure or teaching whatsoever of rounded distal extremity 49 reducing air

introduction. Indeed, Dormandy, Jr. et al. includes no disclosure relating to the functionality of rounded distal extremity 49. Furthermore, the distal end of distal extremity 47 does not include a beveled edge having a tip and a base, the base being disposed proximally of tip. Indeed, as shown in at least Figs. 5 and 10, the distal end face of distal extremity is flat. Thus, even if the distal end of distal extremity may be construed to include a tip and a base, which Applicant does not concede, the alleged base would not be disposed proximally of the alleged tip. Accordingly, Dormandy, Jr. et al. fails to disclose, teach, or otherwise suggest each and every element of independent claim 1.

Claims 2, 5, and 11 depend from independent claim 1 and are therefore allowable for at least the same reasons as independent claim 1, as well as for their additionally recited features.

For at least these reasons, Applicant respectfully requests the reconsideration and withdrawal of the Section 102(b) rejection of claims 1, 2, 5, and 11 over Dormandy, Jr. et al.

Applicant respectfully traverses the Section 103(a) rejection of claims 3 and 35-37 over Dormandy, Jr. et al. and Gordon et al.

As an initial matter, the M.P.E.P. explains that if a “proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” M.P.E.P. § 2143.01(V).

Independent claim 35 is drawn to a front-end loader having, among other things, a proximal portion and a distal portion. The distal portion includes a tube having a

proximal end and a distal end having a beveled edge and a “a chamfered rim around [an] inner perimeter of [the] beveled edge.”

Dormandy, Jr. et al. discloses an introducer cartridge 41 having an elongate tubular member 42 with tapered tip 48 and rounded extremity 49, as explained above.

Gordon et al. discloses a stent securing catheter 10. As shown in Fig. 2, the stent securing catheter 10 includes a distal end 28 disposed at an acute angle to a longitudinal axis A. In addition, distal end 28 is “preferably beveled around its circumference to create a funneling profile at distal end 28 into stent receiving lumen 26.” Col. 3, l. 61 - col. 4, l. 1.

In the Action, the Examiner recognizes that Dormandy, Jr. et al. fails to disclose, teach, or otherwise suggest the claimed beveled edge and chamfered rim. See Office Action at 3-4. The Examiner, however, alleges that “Gordon teaches a chamfered beveled edge (Fig. 2) with inner and outer rims (Fig. 2).” Office Action at 4. The Examiner then proposes to modify Dormandy, Jr. et al. with the teachings of Gordon et al. and concludes that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to have the specified edge, as this aids in delivery of the device.” Id. Applicant respectfully disagrees.

Applicant submits that it would not have been obvious to one of ordinary skill in the art to modify a distal end of the disclosed Dormandy, Jr. et al. introducer cartridge to include a distal end disposed at an acute angle to a longitudinal axis of the cartridge for at least the following reasons.

In each of the disclosed embodiments, the disclosed Dormandy, Jr. et al. introducer cartridge 41 and 151 includes a flat distal end face. See, e.g., Figs. 5 and

14. Stated differently, the entire distal end face of each introducer cartridge 41 and 151 is perpendicular to a longitudinal axis of introducer cartridge 41 and 151.

With specific regard to introducer cartridge 151, Dormandy, Jr. et al. explicitly teaches that it is "desirable to have the distal extremity of tip 161 be as close as possible to the orifice 207 [of hub 196 of delivery catheter 186] so that when an embolization device such as a coil hereinbefore [described] exits from the introducer cartridge it will not have any opportunity to curl." Col. 11, l. 6-14. In other words, Dormandy, Jr. et al. explains that it is desirable to minimize excess spaces and provide a smooth transition from within the disclosed introducer cartridges to the disclosed delivery catheters so as to prevent the embolization coil from prematurely curling.

Applicant therefore respectfully submits that the Examiner's proposed modification of the disclosed Dormandy, Jr. et al. introducer cartridge 41 would render introduction cartridge 41 unsatisfactory for its intended purpose because the modification would result in the introduction of a space between tip 49 and a wall of conical recess 133. This space may be sufficient to allow embolization device 11 to prematurely curl as it is moved out of passage 43 to passage 126 in delivery catheter 121. Accordingly, it would not have been obvious to one of ordinary skill in the art to modify a distal end of the disclosed Dormandy, Jr. et al. introducer cartridge 41 with the teachings of Gordon et al., as proposed by the Examiner.

For at least these reasons, Applicant respectfully requests the reconsideration and withdrawal of the Section 103(a) rejection of claims 3 and 35-37 over Dormandy, Jr. et al. and Gordon et al.

Applicant respectfully traverses the Section 103(a) rejection of claims 6-10 over Dormandy, Jr. et al. and Bourne et al. Even if Bourne et al. teaches what the Examiner alleges, which Applicant does not agree, Bourne et al. fails to overcome the above-described deficiencies of Dormandy, Jr. et al. Accordingly, claims 6-10 are allowable at least due to their dependence on independent claim 1.

Dependent claims 2-3, 5-11, and 36-42 depend from one of independent claims 1 and 35 are allowable for at least the same reasons as these base claims, as well as for their additionally recited features.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly to the maximum extent permitted by statute, regulation, and applicable case law.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1, 3, 5-11, and 35-42 in condition for allowance. This Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final Office Action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of this Amendment

would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of this Amendment would place the Application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing amendments and remarks, Applicant submits that this claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited in this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

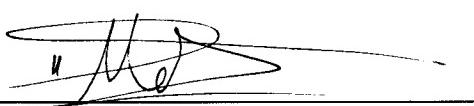
Please grant any extensions of time required to enter this Amendment, and charge any required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 16, 2010

By:


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